

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

DECISION AND ORDER

04-CV-6154L

v.

ANTHONY J. KONCO,
BERNADETTE L. KONCO,
ARNOT MEDICAL SERVICES,
DUANE SPILDE, Commissioner of
Human Services,
CHEMUNG COUNTY DEPARTMENT OF
SOCIAL SERVICES,
JEFFREY BERRY,


Defendants.

The United States commenced this mortgage foreclosure action in 2004. Eventually, judgment was entered in favor of the United States. The subject property at 115 Lynhurst Avenue, Horseheads, New York was sold and the United States Marshal filed his Report of Sale (Dkt. #17) and this Court confirmed that Report on March 17, 2005 (Dkt. #20).

The Report of Sale reported that there were surplus monies available. Thereafter, two claimants filed notices claiming entitlement to the surplus monies. The Clerk of Court has advised that there is approximately \$10,169 remaining on deposit.

I believe the way to proceed is for the United States to commence a surplus money proceeding in this Court, with proper notice to all of the parties. In so moving, the United States should direct those defendants claiming an interest, to submit a detailed affidavit in response to the surplus money proceeding indicating the sum to which they believe they are entitled and the reason the claim should have priority.

IT IS SO ORDERED.



DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
February 12, 2008.